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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227  
(LJV)

v.

August 7, 2024

JOSEPH BONGIOVANNI ,

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF CHRISTOPHER WISNIEWSKI  
BEFORE THE HONORABLE LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY  
BY: JOSEPH M. TRIPPI, ESQ.  
NICHOLAS T. COOPER, ESQ.  
CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys  
Federal Centre, 138 Delaware Avenue  
Buffalo, New York 14202  
For the Plaintiff

SINGER LEGAL PLLC

BY: ROBERT CHARLES SINGER, ESQ.  
80 East Spring Street  
Williamsville, New York 14221  
And

LAW OFFICES OF PARKER ROY MacKAY  
BY: PARKER ROY MacKAY, ESQ.  
3110 Delaware Avenue  
Kenmore, New York 14217  
And

OSBORN, REED & BURKE, LLP  
BY: JOHN J. GILSENAN, ESQ.  
120 Allens Creek Road  
Rochester, New York 14618  
For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent  
MARILYN K. HALLIDAY, HSI Special Agent  
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

1 | COURT DEPUTY CLERK: COLLEEN M. DEMMA

2 **COURT REPORTER:** **ANN MEISSNER SAWYER, FCRR, RPR, CRR**  
3 Robert H. Jackson Federal Courthouse  
4 2 Niagara Square  
Buffalo, New York 14202  
Ann\_Sawyer@nywd.uscourts.gov

\* \* \* \*

8 (Excerpt commenced at 10:09 a.m.)

9 | (Jury is present.)

10 THE COURT: The government can call its next witness.

11                   **MR. COOPER:** Thank you, Judge. The government calls  
12 Special Agent Chris Wisniewski from the DEA.

14      C H R I S T O P H E R    W I S N I E W S K I, having been duly  
15      called and sworn, testified as follows:

16 | MR. COOPER: May I inquire, Judge?

**DIRECT-EXAMINATION BY MR. COOPER:**

20 Q. Good morning, sir. Would you introduce yourself to the  
21 jury, please?

22 A. Good morning, jury. My name is Chris Wisniewski. I'm a  
23 special agent with the DEA here in Buffalo.

24 Q. And how old are you, Chris?

A. I'm going to be 50 this year.

10:10AM 1 Q. Where did you grow up at?  
10:10AM 2 A. Connecticut.  
10:10AM 3 Q. And you mentioned that you're a special agent with the  
10:10AM 4 DEA here in Buffalo?  
10:10AM 5 A. Yes.  
10:10AM 6 Q. When did you begin your career with the DEA?  
10:10AM 7 A. I was hired in 1998.  
10:10AM 8 Q. And before that, what kind of educational background did  
10:10AM 9 you have?  
10:10AM 10 A. I went to college and law school.  
10:10AM 11 Q. And did you apply for a job with the DEA sometime after  
10:10AM 12 finishing law school?  
10:10AM 13 A. While I was in law school.  
10:10AM 14 Q. You applied while you were in law school?  
10:10AM 15 A. Yes.  
10:10AM 16 Q. That's auspicious. And what year did you begin work at  
10:10AM 17 the DEA?  
10:10AM 18 A. In 1998.  
10:10AM 19 Q. And do you go through some training at the beginning of  
10:11AM 20 your career?  
10:11AM 21 A. Yes.  
10:11AM 22 Q. Can you explain that for the jurors?  
10:11AM 23 A. After you get hired from your office of hire, you get  
10:11AM 24 sent down to Quantico, Virginia where, at the time, all DEA  
10:11AM 25 agents trained at the FBI Academy. Separate classes, but

1 same buildings, same dormitories, same ranges, things of that  
2 nature.

3 I want to say that the course is about 16 weeks long, and  
4 covered basic law enforcement procedures, tactics, law,  
5 things of that nature.

6 Q. After that 16-week academy, do you receive an initial  
7 assignment, a location where you have to go work?

8 A. At some point in the academy, they -- yes, they give you  
9 a preference sheet, and then you can pick at the time when  
10 you went there you can pick three locations off the list.

11 Q. And where did you go first after Quantico?

12 A. To Buffalo.

13 Q. When you arrived at Buffalo, what was your title there?

14 A. Special agent.

15 Q. Okay. And what kinds of crimes, generally, just give  
16 them an idea, what kind of crimes did you investigate?

17 A. Drug crimes, financial crimes.

18 Q. I want to speak with you now about the timeframe of 2008,  
19 okay?

20 A. Okay.

21 Q. In 2008, were you working as a special agent at the DEA?

22 A. Yes.

23 Q. Okay. And at that point, would it be fair to say that  
24 you've been a special agent for about ten years?

25 A. Yes.

10:12AM 1 Q. Do you have some experience at that point?

10:12AM 2 A. Yes.

10:12AM 3 Q. Have you handled a number of different types of cases?

10:12AM 4 A. Yes.

10:12AM 5 Q. Where was the DEA office base physically located in 2008?

10:12AM 6 A. I believe it was in the Electric Tower at that point.

10:12AM 7 Q. At some point around that timeframe, did the DEA move to  
10:12AM 8 the Electric Tower?

10:12AM 9 A. Yes, we started in the Guaranty Building, and then at  
10:12AM 10 some point during my career we moved over there to the  
10:12AM 11 Electric Tower.

10:12AM 12 Q. Can you describe for the jury generally what the office  
10:12AM 13 space inside the Electric Tower looked like at the DEA?

10:13AM 14 A. We had one whole floor, one entire floor, probably a half  
10:13AM 15 of another floor. Most of the work spaces were just what we  
10:13AM 16 called open bays. They were rows, long rows of low cubicles  
10:13AM 17 where the agents and task force officers faced each other and  
10:13AM 18 sat side by side in a long line. Pardon me.

10:13AM 19 And then the supervisor's office was located at one of  
10:13AM 20 the ends.

10:13AM 21 Q. You mentioned that there were those kind of low cubicles  
10:13AM 22 and a low bay, as you described it, would it be fair to say  
10:13AM 23 that it was easy to overhear conversations that were going on  
10:13AM 24 from other agents and other task force officers?

10:13AM 25 A. Yes.

10:13AM 1 Q. Did the space appear, in your estimation, to be designed  
10:13AM 2 to facilitate open communication?

10:13AM 3 A. Yes.

10:13AM 4 Q. Is open communication between special agents and task

10:14AM 5 force officers an important part of work as a special agent?

10:14AM 6 A. Yes.

10:14AM 7 Q. Why? Can you tell them?

10:14AM 8 A. The way that we investigate drug cases, you basically  
10:14AM 9 can't do it alone. You, for almost any kind of operation you  
10:14AM 10 go on, you have to take team members with you. Even when  
10:14AM 11 you're doing something simple like conducting interviews, you  
10:14AM 12 have another person with you. Surveillance operations where  
10:14AM 13 we would go and watch people, we would take, you know,  
10:14AM 14 multiple vehicles and people.

10:14AM 15 So, sharing information is pretty vital in that line of  
10:14AM 16 work.

10:14AM 17 Q. Now, you mentioned that sometimes, if you're going to do  
10:14AM 18 an interview you'd bring a partner with you. Did DEA have or  
10:14AM 19 did DEA special agents frequently work with a partner?

10:14AM 20 A. Yes. Yes.

10:14AM 21 Q. And was that kind of a formalized partnership, selected  
10:15AM 22 by management? Or informal, selected by the people who are  
10:15AM 23 working together?

10:15AM 24 A. It was mostly informal.

10:15AM 25 Q. Do you know a person by the name of Joseph Bongiovanni?

10:15AM 1 A. I do.

10:15AM 2 Q. How do you know that person?

10:15AM 3 A. We worked together.

10:15AM 4 Q. Did you work together -- approximately how long would you

10:15AM 5 say you worked with that individual?

10:15AM 6 A. We met at the academy, so over 25 years.

10:15AM 7 Q. As you sit here today, do you have any strong personal

10:15AM 8 feelings about him?

10:15AM 9 A. Not one way or the other. I like the guy.

10:15AM 10 Q. Do you have any animosity towards him?

10:15AM 11 A. No.

10:15AM 12 Q. Are you excited about being here today?

10:15AM 13 A. No.

10:15AM 14 Q. Was he ever your partner?

10:15AM 15 A. No.

10:15AM 16 Q. Is he in court today?

10:15AM 17 A. Yes.

10:15AM 18 Q. Would you point him out and identify an article of

10:15AM 19 clothing for the record?

10:15AM 20 A. He's the gentleman in the red and blue tie, sitting in

10:15AM 21 the middle.

10:15AM 22 **MR. COOPER:** For the record, Judge, indicating the

10:15AM 23 defendant.

10:15AM 24 **THE COURT:** It does.

10:15AM 25 **MR. COOPER:** Thank you.

10:15AM

1 BY MR. COOPER:

10:15AM 2 Q. Despite the fact that you never partnered up with the  
10:15AM 3 defendant, were there times when you would engage in  
10:16AM 4 investigative activity together?

10:16AM 5 A. Yes.

10:16AM 6 Q. Was he a frequent person you would seek out to work with?

10:16AM 7 A. We were on the same groups together, yes, we worked  
10:16AM 8 together almost on a daily basis.

10:16AM 9 Q. So my question is: Is he someone you would seek out to  
10:16AM 10 go out and do something with?

10:16AM 11 A. No, I usually go with my partner.

10:16AM 12 Q. Okay. Have you heard the term DEA-6?

10:16AM 13 A. Yes.

10:16AM 14 Q. Okay. I'm sure you've heard it quite a bit, right?

10:16AM 15 A. Yes.

10:16AM 16 Q. Can you tell the jury what a DEA-6 is?

10:16AM 17 A. It's a standard narrative report form where we write  
10:16AM 18 about investigative steps that we took.

10:16AM 19 Q. Is that something all DEA special agents learn to do  
10:16AM 20 pretty early on?

10:16AM 21 A. Right from the academy.

10:16AM 22 Q. Okay. And is it important that when you generate a DEA-6  
10:16AM 23 and you write information in it, that that information be  
10:16AM 24 accurate?

10:16AM 25 A. Yes.

10:16AM 1 Q. Is it important that, to the best of your ability, the  
11 information that you report be truthful?

10:17AM 3 A. Yes.

10:17AM 4 Q. Why is that important?

10:17AM 5 A. Because all these reports are later used in prosecution.

10:17AM 6 They can be used to launch other cases. They're used to

10:17AM 7 facilitate forfeiture actions. And we rely on those reports

10:17AM 8 to refresh our recollection when we come to court.

10:17AM 9 Q. When you work at the DEA investigating drug-trafficking  
10 offenses, would it be fair to say that a lot of the cases you  
11 investigate involve more than one target or suspect?

10:17AM 12 A. Yes.

10:17AM 13 Q. Are you often targeting organizations?

10:17AM 14 A. Yes.

10:17AM 15 Q. Have you heard of something called an organizational  
16 chart?

10:17AM 17 A. Yes.

10:17AM 18 Q. Can you describe for the jury what an organizational  
19 chart is?

10:17AM 20 A. An organization -- sorry, an organizational chart is  
21 basically -- most times it's like a box, a circle, or line  
22 diagram where you list names, phone numbers, addresses, and  
23 you sort of arrange them in a way that makes sense as a  
24 picture for investigators to sort of look at it and  
25 understand what you're dealing with as far as your case goes

1 at that time.

2 Q. You said a -- a box and line diagram, or a circle and  
3 line diagram; is that correct?

4 A. Yes. Yes.

5 Q. And generally, just speaking in generalities, would it  
6 have names of different individuals involved in an  
7 organization?

8 A. It could.

9 Q. And would the lines indicate connections between those  
10 individuals?

11 A. Yes.

12 Q. And, generally, is there -- at least there's intended to  
13 be some rhyme or reason in terms of how the organizational  
14 chart is organized, right?

15 A. Yes.

16 Q. Trying to kind of create an image out of an organization  
17 that exists in real life, right?

18 A. Yes.

19 Q. Is an organizational chart related to an organization  
20 that the DEA is actively investigating a document that needs  
21 to be handled delicately?

22 A. Usually, yes, sir.

23 Q. Is it something that you'd go home and post on your  
24 Facebook account?

25 A. No.

10:19AM 1 Q. Would you show it to a friend at a bar who wasn't  
10:19AM 2 involved in law enforcement?

10:19AM 3 A. No.

10:19AM 4 Q. Would it be fair to say that if an organizational chart  
10:19AM 5 ended up in the hands of a wrong person, it could derail an  
10:19AM 6 investigation?

10:19AM 7 A. Potentially.

10:19AM 8 Q. During the course of your career, did you participate in  
10:19AM 9 an investigation involving an individual named David Gambino?

10:19AM 10 A. Yes.

10:19AM 11 Q. What was your role at the DEA in that investigation?

10:19AM 12 A. When the case started, I was one of the case agents.

10:19AM 13 Q. Now you said when the case started. Can you estimate for  
10:19AM 14 the jury when that case started from your point of view?

10:20AM 15 A. I don't recall specifically. It was a very long time  
10:20AM 16 ago. But I want to say that it was an '06 file number, so  
10:20AM 17 the case would have formally been opened in 2006.

10:20AM 18 Q. And those file numbers operate off of the fiscal year,  
10:20AM 19 right?

10:20AM 20 A. Yes.

10:20AM 21 Q. So, and you indicated this, but you're estimating  
10:20AM 22 somewhere around 2006; is that correct?

10:20AM 23 A. Yes.

10:20AM 24 Q. Was DEA the only law enforcement agency that was involved  
10:20AM 25 in that investigation?

10:20AM 1 A. No.

10:20AM 2 Q. Can you tell the jury what other law enforcement agencies  
10:20AM 3 were involved?

10:20AM 4 A. It was designated as a higher level investigation. So,  
10:20AM 5 the main partner agencies were ICE -- or Homeland Security  
10:20AM 6 Investigations, as it's known now -- the IRS, ATF was pretty  
10:20AM 7 heavily involved at the beginning, of course the DEA. We  
10:20AM 8 also partnered with the FBI, Buffalo police, sheriff's  
10:21AM 9 department, Amherst police, Town of Tonawanda.

10:21AM 10 Basically, wherever the organization operated, we sought  
10:21AM 11 assistance and information from the local and state  
10:21AM 12 authorities there.

10:21AM 13 Q. And one of the agencies that you mentioned was HSI or  
10:21AM 14 ICE; is that correct?

10:21AM 15 A. Yes.

10:21AM 16 Q. And that's Homeland Security Investigations?

10:21AM 17 A. Yes.

10:21AM 18 Q. Was there a point person or a lead agent from HSI  
10:21AM 19 involved in the Gambino investigation when you were involved  
10:21AM 20 in it?

10:21AM 21 A. Yes.

10:21AM 22 Q. Who was that person?

10:21AM 23 A. Initially it was Joseph Dubreville, but he was replaced  
10:21AM 24 by TJ Webb.

10:21AM 25 Q. Are those both special agents with Homeland Security?

10:21AM 1 A. Yes.

10:21AM 2 Q. Can you give a brief summary, like just a 30,000-foot  
10:21AM 3 view for the jury, what that investigation entailed, what was  
10:21AM 4 it about?

10:21AM 5 A. It was an interstate cocaine and marijuana case.

10:22AM 6 Q. Was there a general geographic location in Western  
10:22AM 7 New York where targets of that investigation either lived or  
10:22AM 8 hung out?

10:22AM 9 A. A lot of the targets were from, like, the North Buffalo  
10:22AM 10 area. They lived and hung out in that area near the  
10:22AM 11 Tonawanda/Amherst lines.

10:22AM 12 Q. Was there a suspected nexus to Italian Organized Crime  
10:22AM 13 involved in that investigation?

10:22AM 14 A. Yes.

10:22AM 15 Q. I want to -- so sometime around 2006, you indicated you  
10:22AM 16 became involved in the Gambino investigation, right?

10:22AM 17 A. Yes.

10:22AM 18 Q. And you've described it was kind of a large  
10:22AM 19 investigation, right?

10:22AM 20 A. Yes.

10:22AM 21 Q. Did it go on for a number of years?

10:22AM 22 A. Yes.

10:22AM 23 Q. I want to fast forward now to 2008.

10:22AM 24 In 2008, do you remember getting contacted by somebody  
10:22AM 25 regarding an organizational chart in the Gambino

10:22AM 1 investigation?

10:22AM 2 A. Yes.

10:22AM 3 Q. Who contacted you?

10:22AM 4 A. Special Agent Webb.

10:22AM 5 Q. Is that TJ Webb from HSI that we just spoke about?

10:23AM 6 A. Yes.

10:23AM 7 Q. Before Special Agent Webb contacted you about that

10:23AM 8 organizational chart, had anyone else ever contacted you

10:23AM 9 about the organizational chart?

10:23AM 10 A. Not that I recall.

10:23AM 11 Q. Was Special Agent Webb, based on your -- was that a phone  
10:23AM 12 call or an in-person discussion?

10:23AM 13 A. Again, it was a really long time ago. But from what I  
10:23AM 14 recall, I believe he called me initially to tell me what he  
10:23AM 15 learned.

10:23AM 16 Q. Where were you when you got that phone call?

10:23AM 17 A. I believe I was at the U.S. Attorney's office.

10:23AM 18 Q. On the Gambino case, or another case?

10:23AM 19 A. I don't recall.

10:23AM 20 Q. So you're at the U.S. Attorney's Office, and you receive  
10:23AM 21 a phone call from Special Agent Webb; is that correct?

10:23AM 22 A. I believe so.

10:23AM 23 Q. And did Special Agent Webb appear excited or interested  
10:23AM 24 in the information that he had learned?

10:23AM 25 A. Yes.

10:23AM 1 Q. Did you agree to meet with him and discuss it?

10:23AM 2 A. Yes.

10:23AM 3 Q. Now, as you sit here today in 2024, do you remember if  
10:24AM 4 that meeting occurred the same day or shortly thereafter?

10:24AM 5 A. I don't recall. It was -- if it wasn't that same day,  
10:24AM 6 then was shortly thereafter.

10:24AM 7 Q. Do you recall ultimately having a meeting with Special  
10:24AM 8 Agent Webb to discuss the organizational chart?

10:24AM 9 A. Yes.

10:24AM 10 Q. Where did that meeting occur?

10:24AM 11 A. In my office, in my bay.

10:24AM 12 Q. Is that at the Electric Tower?

10:24AM 13 A. Yes.

10:24AM 14 Q. And your "bay," as you described earlier, are those kind  
10:24AM 15 of low cubicles in the open area; is that correct?

10:24AM 16 A. Yes.

10:24AM 17 Q. Are there other DEA agents milling around when you're  
10:24AM 18 having conversations like that?

10:24AM 19 A. Yes.

10:24AM 20 Q. Are there other task force officers milling around when  
10:24AM 21 you're having conversations?

10:24AM 22 A. Yes.

10:24AM 23 Q. Did Special Agent Webb bring that organizational chart to  
10:24AM 24 the meeting with you?

10:24AM 25 A. Yes.

10:24AM 1 Q. Did you discuss what was contained on it?

10:24AM 2 A. Yes.

10:24AM 3 Q. Does DEA sometimes assign cold case agents to cases?

10:25AM 4 A. Yes.

10:25AM 5 Q. Did you have a cold case agent from the DEA on the

10:25AM 6 Gambino investigation?

10:25AM 7 A. I did, yes.

10:25AM 8 Q. Who was it?

10:25AM 9 A. My partner, Christian Ulmer.

10:25AM 10 Q. Was the defendant the co-case agent on the Gambino

10:25AM 11 investigation?

10:25AM 12 A. I'm sorry?

10:25AM 13 Q. Was the defendant, Joe Bongiovanni, a co-case agent on

10:25AM 14 the Gambino investigation?

10:25AM 15 A. Oh, I'm sorry. No, he wasn't.

10:25AM 16 Q. At some point after Special Agent Webb brought this

10:25AM 17 organizational chart to the DEA, and you had a discussion

10:25AM 18 with him about it in the bay, did defendant Joseph

10:25AM 19 Bongiovanni approach you to discuss a name that was on that

10:25AM 20 organizational chart?

10:25AM 21 A. Yes.

10:25AM 22 Q. Who was the person he came up to you to discuss?

10:26AM 23 A. Peter Gerace.

10:26AM 24 Q. Was his name on the organizational chart?

10:26AM 25 A. Yes.

10:26AM 1 Q. I'm holding what's marked as Government Exhibit 30B.

10:26AM 2 **MR. COOPER:** May I approach the witness?

10:26AM 3 **THE COURT:** You may.

10:26AM 4 **BY MR. COOPER:**

10:26AM 5 Q. Take a moment and look through that three-page document,  
10:26AM 6 sir, and when you're finished look up.

10:26AM 7 Do you recognize that?

10:26AM 8 A. I do. From my trial prep.

10:26AM 9 Q. Is that a DEA-6 report?

10:26AM 10 A. Yes.

10:26AM 11 Q. Is there a case number on it?

10:26AM 12 A. Yes.

10:26AM 13 Q. Do you recognize the case number?

10:26AM 14 A. Yes.

10:26AM 15 Q. Okay.

10:26AM 16 A. I do.

10:26AM 17 Q. On the third page, or it's the second piece of paper,

10:27AM 18 it's double sided, is there an organizational chart?

10:27AM 19 A. Yes.

10:27AM 20 Q. Do you recognize that?

10:27AM 21 A. Yes.

10:27AM 22 Q. Starting with that organizational chart, is that a fair

10:27AM 23 and accurate depiction of the organizational chart that

10:27AM 24 Special Agent Webb brought to you and discussed with you at

10:27AM 25 the DEA?

10:27AM 1 A. Yes.

10:27AM 2 Q. And that DEA-6, is that a fair and accurate depiction of  
10:27AM 3 a DEA-6 report that was entered into your file on the, as  
10:27AM 4 you've called it, the David Gambino investigation?

10:27AM 5 A. Yes.

10:27AM 6 **MR. COOPER:** Judge, I'd offer Exhibit 30B into  
10:27AM 7 evidence.

10:27AM 8 **MR. MacKAY:** No objection.

10:27AM 9 **THE COURT:** Received without objection.

10:27AM 10 **(GOV Exhibit 30B was received in evidence.)**

10:27AM 11 **BY MR. COOPER:**

10:27AM 12 Q. May I have that back, sir?

10:27AM 13 A. Sure.

10:27AM 14 **MR. COOPER:** If we can publish to the jury just the  
10:27AM 15 third page of Exhibit 30B right now.

10:27AM 16 **BY MR. COOPER:**

10:28AM 17 Q. Sir, can you see that up on your screen?

10:28AM 18 A. Yes.

10:28AM 19 Q. Can you circle the name that the defendant came up to  
10:28AM 20 speak with you about?

10:28AM 21 If you touch the screen, it should draw on it, hopefully.

10:28AM 22 A. This one.

10:28AM 23 **MR. COOPER:** Just for the record, Judge, there's a  
10:28AM 24 green circle surrounding the box with Peter "Gerasi" Jr.  
10:28AM 25 towards the top of the center of the exhibit?

10:28AM 1           **THE COURT:** That's accurate.

10:28AM 2           **BY MR. COOPER:**

10:28AM 3 Q. Special Agent Webb, the location of that name on this  
10:28AM 4 organizational chart, would you term that as towards the top  
10:28AM 5 of the chart?

10:28AM 6 A. Yeah, top middle, upper middle.

10:28AM 7 Q. And you just got my next question, but it's in the  
10:28AM 8 center, right?

10:28AM 9 A. Yes.

10:28AM 10 Q. You described for us before that these organizational  
10:28AM 11 charts are often box and line diagrams, right?

10:28AM 12 A. Yes.

10:28AM 13 Q. Is that what this chart is?

10:28AM 14 A. Yes.

10:28AM 15 Q. Are there a bunch of different lines coming off the name  
10:29AM 16 Peter "Gerasi" Jr.

10:29AM 17 A. Yes.

10:29AM 18 Q. Those go to a variety of different names and individuals;  
10:29AM 19 is that right?

10:29AM 20 A. Yes.

10:29AM 21 Q. When you got this chart from Special Agent TJ Webb did  
10:29AM 22 you bring it over to the defendant and hand it to him?

10:29AM 23 A. No.

10:29AM 24 Q. Did you try to start a discussion with him about it?

10:29AM 25 A. I don't recall.

10:29AM 1 Q. Who started the discussion about the name Peter Gerace?

10:29AM 2 A. I believe it was Special Agent Webb when we initially  
10:29AM 3 were reviewing the chart.

10:29AM 4 Q. And was the defendant a part of that initial conversation  
10:29AM 5 with Special Agent Webb?

10:29AM 6 A. I don't believe so, no.

10:29AM 7 Q. So at some point later, the defendant comes up to talk to  
10:29AM 8 you about this name Peter "Gerasi" on the chart?

10:29AM 9 A. Yes.

10:29AM 10 **MR. COOPER:** Ms. Champoux, can we go to page 1 of  
10:29AM 11 this exhibit? If we can zoom out so we get the whole thing?  
10:30AM 12 Thank you.

10:30AM 13 Can we zoom in on the top portion through box 10?

10:30AM 14 Thank you.

10:30AM 15 **BY MR. COOPER:**

10:30AM 16 Q. Can you see that, Special Agent Wisniewski?

10:30AM 17 A. Yes.

10:30AM 18 Q. At the box number 3, there's a file number; is that  
10:30AM 19 correct?

10:30AM 20 A. Yes.

10:30AM 21 Q. C2-06-0120?

10:30AM 22 A. Yes.

10:30AM 23 Q. Was that the file number for your David Gambino  
10:30AM 24 investigation?

10:30AM 25 A. Yes.

10:30AM 1 Q. Now in the box where it says file title, that says  
10:30AM 2 Matthew Scalia; is that correct?

10:30AM 3 A. Correct.

10:30AM 4 Q. Can you just explain to the jury why it doesn't say David  
10:30AM 5 Gambino?

10:30AM 6 A. Because when we initiate -- when DEA initiates cases,

10:30AM 7 usually you will name the first person that you think most

10:30AM 8 likely you'll be able to arrest. In this instance, where we

10:30AM 9 started the case it was a person by the name Matthew Scalia.

10:30AM 10 We purchased cocaine from him, and eventually arrested him.

10:31AM 11 And that took us to other parts of the case.

10:31AM 12 Q. Based upon your investigation, did you use this file

10:31AM 13 title, Matthew Scalia, to continue to investigate the Gambino

10:31AM 14 organization?

10:31AM 15 A. Yes.

10:31AM 16 Q. Were there links between Scalia and Gambino?

10:31AM 17 A. I believe so, yes.

10:31AM 18 Q. Would it have been appropriate to build the Gambino

10:31AM 19 investigation into a file that had nothing to do with

10:31AM 20 Gambino?

10:31AM 21 A. I'm sorry, say that again?

10:31AM 22 Q. Would it have been appropriate to build the Gambino

10:31AM 23 investigation out in a file that had nothing to do with

10:31AM 24 Gambino?

10:31AM 25 A. Generally not, no.

10:31AM 1 Q. So if it's under the Scalia file title, based on your  
10:31AM 2 training and experience, you'd expect there to be a link  
10:31AM 3 between those two?

10:31AM 4 A. Yes.

10:31AM 5 Q. Okay. What's the date that this report was prepared?

10:31AM 6 A. It says -- it says December 2nd, 2008.

10:31AM 7 Q. And who's the author of this report?

10:31AM 8 A. Special Agent Joseph Bongiovanni.

10:31AM 9 Q. Are there other officers listed?

10:31AM 10 A. Yes.

10:31AM 11 Q. Who are they?

10:31AM 12 A. Myself, and police -- Buffalo Police Captain Mark  
10:32AM 13 Marchiello.

10:32AM 14 Q. You see the initials AGS in front of your name?

10:32AM 15 A. Yes.

10:32AM 16 Q. What does that mean, can you tell them?

10:32AM 17 A. At the time of this report's writing, I was the acting  
10:32AM 18 group supervisor. So that basically means our supervisor  
10:32AM 19 moved up a rank to run the office at the time, and I was  
10:32AM 20 temporarily running the team.

10:32AM 21 Q. In box 10, is that kind of a summary of what this report  
10:32AM 22 is supposed to be about?

10:32AM 23 A. Yes.

10:32AM 24 Q. Can you read for the jury what it says in box 10?

10:32AM 25 A. Acquisition of flowchart associated to the David Gambino

1 organization.

2 Q. You didn't write this DEA-6, did you?

3 A. No.

4 Q. Did you direct that this DEA-6 be written?

5 A. I don't recall the production of this DEA-6. Again, it  
6 was written a long time ago.

7 **MR. COOPER:** Ms. Champoux, you can zoom out of that.

8 And we can take the exhibit down for just a minute. Thank  
9 you, ma'am.

10 **BY MR. COOPER:**

11 Q. Would it be fair to say that an organizational chart like  
12 the one we just looked at, the purpose of it is to map out  
13 relationships between suspected criminal actors?

14 A. Yes.

15 Q. Okay. Now at the time you got that chart, do you know  
16 whether the information on it was accurate?

17 A. I suspected that it might be. That chart was not  
18 prepared by law enforcement, it was prepared by -- it was  
19 obtained by a confidential informant from the Buffalo Police  
20 Department, so we didn't really know what was on that chart.

21 And then we -- a lot of the discussion was trying to figure  
22 out what it actually meant and who was who and what was what.

23 Q. Would it be fair to say it would require some follow-up  
24 investigation to find out if the information contained on  
25 here was accurate?

10:33AM 1 A. Yes.

10:33AM 2 Q. What the -- would it be also fair to say, though, that  
10:34AM 3 what the chart purports to be is relationships between  
10:34AM 4 criminal actors?

10:34AM 5 A. Yes.

10:34AM 6 Q. Now, a few minutes ago you told the jury that the  
10:34AM 7 defendant came up and approached you about the name Peter  
10:34AM 8 Gerace being on your chart; do you remember that?

10:34AM 9 A. Yes.

10:34AM 10 Q. What did the defendant say to you when he approached you  
10:34AM 11 about Peter Gerace being on this chart?

10:34AM 12 A. He said that he knew him from the old neighborhood. And  
10:34AM 13 that he could talk to him and try to do what's called a cold  
10:34AM 14 approach to see if he would cooperate with us.

10:34AM 15 Q. You used the term "cold approach." Can you just define  
10:34AM 16 that for the jury?

10:34AM 17 A. A cold approach is a technique where we just approach  
10:34AM 18 someone that we think can help us, and either bluff them that  
10:35AM 19 they have charges pending or could have charges pending, or  
10:35AM 20 because they're a good citizen they help us out.

10:35AM 21 Q. Is that a technique of first resort for you as --

10:35AM 22 A. Not generally, because it's a little on the riskier side.

10:35AM 23 Q. When you say it's "a little on the riskier side," can you  
10:35AM 24 explain to the jury what the risks are on a cold approach?

10:35AM 25 A. If you're approaching a potential person under

1 investigation, then you've tipped your hand that he's under  
2 investigation. And during the discussion, he may or may not  
3 learn of the scope of your investigation and, like, some of  
4 the goings on if you're not careful in the -- how you  
5 approach the situation.

6 Q. Now, would it be fair to say a cold approach could result  
7 in gaining a valuable cooperator?

8 A. If it works, it's very valuable. It speeds up the  
9 investigative process immensely.

10 Q. And if it doesn't work, there are risks such as derailing  
11 the investigation into that target, right?

12 A. Yes.

13 Q. Did you agree to allow the defendant to pursue that  
14 investigative approach with Gerace?

15 A. Yes.

16 Q. At that time, when you had this conversation, was Gerace  
17 the main target of your investigation?

18 A. No.

19 Q. Was he a key focus for you?

20 A. No.

21 Q. If he had been the main target, the head honcho in your  
22 investigation, would you have approved a cold approach out  
23 of nowhere?

24 A. It would have been a much lengthier, I think, discussion  
25 with the partner agencies and leadership, management, about

1 whether or not that would be appropriate.

2 Q. But in these circumstances, you agreed to allow the  
3 defendant to try that; is that correct?

4 A. Yes.

5 Q. During that discussion about the defendant volunteering  
6 to cold approach Peter Gerace, did he tell you that they were  
7 personal friends?

8 A. He didn't -- I don't really recall, he said he knew him  
9 from the old neighborhood.

10 Q. Okay. Did he tell you that they went on double dates  
11 together?

12 A. No, I don't think so.

13 Q. If he had told you that, would that have stuck out in  
14 your mind?

15 A. Yes.

16 Q. Okay. Does it stick out in your mind?

17 A. No.

18 Q. Did he tell you that him and Peter Gerace went on  
19 vacations together?

20 A. No.

21 Q. Did he tell you that he and Peter Gerace exchanged social  
22 phone calls together?

23 A. No.

24 Q. Did he tell you that he and Peter Gerace text messaged  
25 each other?

10:37AM 1 A. No.

10:37AM 2 Q. If he had shared that information with you, would you  
10:37AM 3 have said, yeah, go out, do the cold approach, see how it  
10:37AM 4 goes?

10:37AM 5 A. I don't know. But it definitely would have affected the  
10:37AM 6 decision-making process, it would have been a much lengthier  
10:37AM 7 discussion.

10:37AM 8 Q. Would you have brought this to a supervisor?

10:37AM 9 A. Most likely, yes.

10:37AM 10 Q. How many years have you been a DEA special agent?

10:37AM 11 A. Now? Over 25, going on 26 years.

10:38AM 12 Q. Would you handle a close personal friend as a  
10:38AM 13 confidential source?

10:38AM 14 A. I would not, no.

10:38AM 15 Q. Would you handle a close personal friend as a source of  
10:38AM 16 information?

10:38AM 17 A. Probably not.

10:38AM 18 Q. Sometime after that conversation with the defendant, does  
10:38AM 19 he come and report back to you about his cold approach of  
10:38AM 20 Peter Gerace?

10:38AM 21 A. Yes.

10:38AM 22 Q. What does he tell you?

10:38AM 23 A. That it wasn't going to happen. Mr. Gerace didn't -- I  
10:38AM 24 don't recall the exact conversation, again, it was a very  
10:38AM 25 long time ago, but he either didn't know the right people or

10:38AM 1 he couldn't get the right quantities of drugs. And it turned  
10:38AM 2 out that it was going to be marijuana. And I remember the  
10:38AM 3 discussion was around 10 pounds, he could only get around 10  
10:38AM 4 or less than 10. I don't recall specifically, but it  
10:38AM 5 didn't -- it wasn't going to work out.

10:39AM 6 Q. When the defendant came back to talk to you, did he  
10:39AM 7 encourage you to use Peter Gerace as a cooperator?

10:39AM 8 A. Did he encourage me?

10:39AM 9 Q. Did he encourage you.

10:39AM 10 A. I don't recall.

10:39AM 11 Q. Did the information that he provided you as you just  
10:39AM 12 related to the jury, is that he told you this guy's not going  
10:39AM 13 to help us, right?

10:39AM 14 A. Yes.

10:39AM 15 Q. That's not encouraging you to use him, is it?

10:39AM 16 A. No.

10:39AM 17 Q. Is there an inherent trust that exists between DEA  
10:39AM 18 special agents?

10:39AM 19 A. Yes.

10:39AM 20 Q. Do you believe something that another special agent tells  
10:39AM 21 you when you're at work?

10:39AM 22 A. Yes.

10:39AM 23 Q. Is that important?

10:39AM 24 A. Yes.

10:39AM 25 Q. Why is it important?

10:39AM 1 A. Because we handle a tremendous amount of information, and  
10:39AM 2 you can't possibly check it all yourself, you have to rely on  
10:39AM 3 the work of others and the word of others to sort of make the  
10:39AM 4 cases move forward.

10:39AM 5 Q. When the defendant told you after his cold approach with  
10:39AM 6 Peter Gerace that Gerace didn't have information that could  
10:40AM 7 help you, did you believe him?

10:40AM 8 A. Yes.

10:40AM 9 Q. Did you go and vet it yourself and talk to Gerace  
10:40AM 10 yourself?

10:40AM 11 A. I did not, no.

10:40AM 12 Q. When the defendant reported back to you that his cold  
10:40AM 13 approach of Peter Gerace had essentially failed, does that  
10:40AM 14 diminish your ability or inroads you could have to  
10:40AM 15 investigate Peter Gerace?

10:40AM 16 A. It could.

10:40AM 17 Q. How so?

10:40AM 18 A. I mean, well, he now knows that, you know, we have  
10:40AM 19 information that he may be involved in drug trafficking. So  
10:40AM 20 he could potentially, like, stop trafficking for a while. He  
10:40AM 21 can change, like, who he deals with. He can change his  
10:40AM 22 method of operations.

10:40AM 23 Q. Is it a fairly basic concept in drug investigations that  
10:40AM 24 you don't want the target of your investigation to know  
10:41AM 25 they're under investigation?

10:41AM 1 A. Generally speaking, yes, sir.

10:41AM 2 Q. It makes your job easier, right?

10:41AM 3 A. Yes.

10:41AM 4 Q. And to the contrary, if they know they're under  
10:41AM 5 investigation, would that make your job harder?

10:41AM 6 A. Yes.

10:41AM 7 **MR. COOPER:** Ms. Champoux, can we go back to  
10:41AM 8 Government Exhibit 30B on page 1, please.

10:41AM 9 Can you zoom in on paragraphs 1 and 2.

10:41AM 10 **BY MR. COOPER:**

10:41AM 11 Q. This paragraph 1 sentence here, is that a standard  
10:41AM 12 sentence that's used in DEA-6 reports?

10:41AM 13 A. Sentence 1, yes.

10:41AM 14 Q. Okay. Can you just tell them, I think this may be the  
10:41AM 15 first time we're going through it, can you explain to the  
10:41AM 16 jury what that standard sentence is and what it means?

10:41AM 17 A. So when we write that, we're linking this information to  
10:42AM 18 the other information in the file. When we report, some  
10:42AM 19 agencies write one long comprehensive report. When we do a  
10:42AM 20 report, we do it by action. So this information is here  
10:42AM 21 because it is connected to other information in the file.

10:42AM 22 Q. Can you read paragraph 2 for the jury?

10:42AM 23 A. On December 1, 2008, at approximately 7:30 p.m., Special  
10:42AM 24 Agent Bongiovanni met with Buffalo Police Captain Mark  
10:42AM 25 Marchiello at Buffalo Police headquarters in Buffalo,

10:42AM 1 New York. At that time, Captain Marchiello gave Special  
10:42AM 2 Agent Bongiovanni an organizational chart listing drug  
10:42AM 3 traffickers identified by target David Gambino. The  
10:42AM 4 organizational chart was sketched by Gambino himself, and  
10:42AM 5 given to a confidential source utilized by BPD Captain  
10:42AM 6 Marchiello. The organizational chart describes significant  
10:42AM 7 targets, both identified as drug traffickers and other  
10:43AM 8 targets yet to be identified as those trafficking in cocaine  
10:43AM 9 and marijuana in the Buffalo, New York area.

10:43AM 10 **MR. COOPER:** Can you zoom out, Ms. Champoux? And  
10:43AM 11 zoom in on paragraph 3 and 4.

10:43AM 12 **BY MR. COOPER:**

10:43AM 13 Q. Can you continue reading at paragraph 3, slowly?

10:43AM 14 A. On December 2nd, 2008, Special Agent Bongiovanni turned  
10:43AM 15 over the aforementioned chart to case agent -- Special Agent  
10:43AM 16 Christopher Wisniewski in reference to case file C2-06-0120.

10:43AM 17 Special Agent Wisniewski stated he would contact BPD  
10:43AM 18 Captain Marchiello to discuss the details of how the chart  
10:43AM 19 was acquired.

10:43AM 20 Q. Is the information in paragraph 3 accurate?

10:43AM 21 A. I don't recall. It -- it -- it's inconsistent with my  
10:43AM 22 recollection. I received the organizational chart from TJ  
10:44AM 23 Webb.

10:44AM 24 Q. Does the report say Special Agent Wisniewski received the  
10:44AM 25 organizational chart from TJ Webb?

10:44AM 1 A. No.

10:44AM 2 Q. Is it accurate?

10:44AM 3 A. Not in that aspect, no.

10:44AM 4 Q. It says Special Agent Wisniewski stated that he would

10:44AM 5 contact BPD Captain Marchiello to discuss the details of how

10:44AM 6 the chart was acquired. Did you state that?

10:44AM 7 A. I don't recall stating that. I don't recall that I ever

10:44AM 8 spoke with Captain Marchiello regarding the matter. I

10:44AM 9 believe it was all TJ Webb doing that.

10:44AM 10 **MR. COOPER:** You can zoom out, Ms. Champoux.

10:44AM 11 Can you zoom in on boxes 11, 12, 13, 14, and 15.

10:44AM 12 Thank you.

10:44AM 13 **BY MR. COOPER:**

10:44AM 14 Q. Is this the signature block of DEA-6?

10:44AM 15 A. Yes.

10:44AM 16 Q. Who's the author of the report?

10:44AM 17 A. Special Agent Bongiovanni.

10:44AM 18 Q. Does it list you as the approver?

10:44AM 19 A. Yes.

10:44AM 20 Q. Do you have any independent recollection of approving

10:44AM 21 that?

10:44AM 22 A. No.

10:44AM 23 **MR. COOPER:** You can zoom out of that, Ms. Champoux.

10:45AM 24 **BY MR. COOPER:**

10:45AM 25 Q. In this DEA-6, is there any mention of the name Peter

10:45AM 1 Gerace?

10:45AM 2 A. No.

10:45AM 3 Q. Is there any mention of a cold approach?

10:45AM 4 A. No.

10:45AM 5 **MR. COOPER:** Can you go to the next page,

10:45AM 6 Ms. Champoux?

10:45AM 7 **BY MR. COOPER:**

10:45AM 8 Q. Down here at the bottom, do you see -- it's really at the

10:45AM 9 top, do you see where it says indexing?

10:45AM 10 A. Yes.

10:45AM 11 Q. How many people are indexed?

10:45AM 12 A. One.

10:45AM 13 Q. Who?

10:45AM 14 A. David Gambino.

10:45AM 15 Q. Is Peter Gerace indexed?

10:45AM 16 A. No.

10:45AM 17 Q. Is there any reference in this DEA-6 to a cold approach

10:45AM 18 of Peter Gerace?

10:45AM 19 A. No.

10:45AM 20 Q. Is there any reference in this DEA-6 to the defendant,

10:45AM 21 Joseph Bongiovanni, going and talking to Peter Gerace about

10:45AM 22 the organizational chart?

10:45AM 23 A. No.

10:45AM 24 **MR. COOPER:** You can take that down, Ms. Champoux.

10:45AM 25 Judge, may I approach the witness?

10:45AM 1           **THE COURT:** Sure.

10:45AM 2           **BY MR. COOPER:**

10:45AM 3 Q. I'm holding what's in evidence as Government Exhibit 30A.

10:46AM 4 Can you take a moment and look at that, and when you're  
10:46AM 5 finished, look back up at me, sir.

10:46AM 6 Is that a DEA-6 report?

10:46AM 7 A. Yes.

10:46AM 8 Q. When's the first time you recall seeing that report?

10:46AM 9 A. This morning.

10:46AM 10 Q. Before you were shown that report this morning, do you  
10:46AM 11 recall ever seeing it before?

10:46AM 12 A. No.

10:46AM 13 Q. What file is that report written into?

10:46AM 14 A. C2-06-0120, Matthew Scalfia.

10:46AM 15 Q. Is that the investigation into David Gambino that you  
10:46AM 16 were involved in between '06 and '08?

10:46AM 17 A. Yes.

10:46AM 18 Q. Did you write this DEA-6?

10:46AM 19 A. No.

10:46AM 20 Q. Who's the author of it?

10:46AM 21 A. Special Agent Joseph Bongiovanni.

10:47AM 22           **MR. COOPER:** Can we publish Exhibit 30A to the jury,  
10:47AM 23 please? Thank you.

10:47AM 24 Can we zoom in on paragraph 2 and 3?

10:47AM 25 Ms. Champoux, can you highlight the second sentence

10:47AM 1 in paragraph 2? Starting here. No, the second sentence.

10:47AM 2 Thank you.

10:47AM 3 **BY MR. COOPER:**

10:47AM 4 Q. We highlighted the second sentence in paragraph 2 of  
10:47AM 5 Government Exhibit 30A. Do you see that?

10:47AM 6 A. Yes.

10:47AM 7 Q. Gerace has acted as a confidential source, and has been  
10:47AM 8 able to provide information regarding individuals in this  
10:47AM 9 case file and other narcotic investigation in the past.

10:48AM 10 Is that what it says?

10:48AM 11 A. Yes.

10:48AM 12 Q. Where it says this case file, is that reference to  
10:48AM 13 C2-06-0120?

10:48AM 14 A. I would assume so.

10:48AM 15 Q. That's the file it's entered into, right?

10:48AM 16 A. Yes.

10:48AM 17 Q. Did the defendant ever tell you that Peter Gerace  
10:48AM 18 provided information regarding individuals in C2-06-0120?

10:48AM 19 A. Outside of what we've already discussed, no.

10:48AM 20 Q. Well, what you discussed was he couldn't help you, right?

10:48AM 21 A. Correct.

10:48AM 22 Q. Is what's written in this DEA-6 consistent with what the  
10:48AM 23 defendant told you about his meeting, his cold approach of  
10:48AM 24 Peter Gerace?

10:48AM 25 A. No.

10:48AM 1 Q. It's not?

10:48AM 2 A. I'm sorry, it's not consistent.

10:48AM 3 **MR. COOPER:** Okay. You can zoom out, Ms. Champoux.

10:48AM 4 Thank you. Can you go to page 2 of this exhibit.

10:48AM 5 **BY MR. COOPER:**

10:49AM 6 Q. Do you see at the bottom where it says indexing section?

10:49AM 7 A. Yes.

10:49AM 8 Q. Is Peter Gerace indexed on that DEA-6?

10:49AM 9 A. Yes.

10:49AM 10 Q. Do you see where it says NADDIS number pending?

10:49AM 11 A. Yes.

10:49AM 12 Q. What does "NADDIS number pending" mean?

10:49AM 13 A. That means information regarding that subject was entered  
10:49AM 14 into the system, and the system -- the information was to be  
10:49AM 15 processed, and it would generate a NADDIS number for that  
10:49AM 16 person.

10:49AM 17 Q. Now, just walk through this with me. At the time you're

10:49AM 18 creating a DEA-6, not this one in particular, but you're

10:49AM 19 creating a DEA-6, and you enter someone into NADDIS. Are you  
10:49AM 20 checking to see if they already have a NADDIS number?

10:49AM 21 A. You should, yes.

10:49AM 22 Q. Okay. And if they already have a NADDIS number, do you  
10:49AM 23 put that NADDIS number in?

10:49AM 24 A. Yes.

10:49AM 25 Q. How do you check to see if someone already has a NADDIS

10:49AM 1 number?

10:49AM 2 A. You access NADDIS and run their name.

10:49AM 3 Q. Is it hard?

10:50AM 4 A. No, it only takes a few minutes.

10:50AM 5 Q. As an experienced DEA special agent, do you know how to

10:50AM 6 check if someone has a NADDIS number?

10:50AM 7 A. Yes.

10:50AM 8 Q. Before you index someone, do you check to see if they

10:50AM 9 have a NADDIS number?

10:50AM 10 A. Do I? Yes, I do.

10:50AM 11 Q. Okay. In NADDIS, can that include information about a

10:50AM 12 person, like their phone number?

10:50AM 13 A. Yes.

10:50AM 14 Q. Can it include their address?

10:50AM 15 A. Yes.

10:50AM 16 Q. Is it something that helps the DEA to investigate people?

10:50AM 17 A. Yes.

10:50AM 18 **MR. COOPER:** Judge, may I approach the witness?

10:50AM 19 **THE COURT:** You may.

10:50AM 20 **BY MR. COOPER:**

10:50AM 21 Q. I'm holding what's in evidence subject to connection and

10:50AM 22 subject to authentication as Exhibit 437. Do you recognize

10:50AM 23 that document, sir?

10:50AM 24 A. Yes.

10:50AM 25 Q. Is that a NADDIS printout?

10:50AM 1 A. Yes.

10:50AM 2 Q. Who does it pertain to?

10:50AM 3 A. Peter Gerace.

10:50AM 4 Q. Towards the top of that document, is there an indication

10:51AM 5 as to when Peter Gerace was assigned a NADDIS number?

10:51AM 6 A. Yes.

10:51AM 7 Q. When is it?

10:51AM 8 A. It says date of record, January 16, 1992.

10:51AM 9 Q. Do NADDIS records expire after six months?

10:51AM 10 A. No.

10:51AM 11 Q. Do they last a long time?

10:51AM 12 A. Yes.

10:51AM 13 Q. Does that help you in investigations?

10:51AM 14 A. Yes.

10:51AM 15 Q. Is it important that you be able to look back and see if

10:51AM 16 someone had come up in 1992?

10:51AM 17 A. It's helpful, yes.

10:51AM 18 Q. Okay. So based on your 25-plus years of experience at

10:51AM 19 the DEA, if you ran Peter Gerace in NADDIS in 2008, would he

10:51AM 20 have shown up?

10:51AM 21 A. He should have.

10:51AM 22 Q. He's been in NADDIS since 1992, right?

10:51AM 23 A. Yes.

10:51AM 24 **MR. COOPER:** May I approach, Judge?

10:51AM 25 **THE COURT:** Yes.

10:51AM 1           **MR. COOPER:** Thank you.

10:51AM 2           **BY MR. COOPER:**

10:51AM 3 Q. When that report, Government Exhibit 30A, reports that  
10:51AM 4 Peter Gerace's NADDIS was pending, that was not accurate  
10:51AM 5 information, was it?

10:51AM 6 A. No.

10:51AM 7 Q. By volunteering to go do a cold approach on Peter Gerace,  
10:52AM 8 the defendant necessarily informed him that he was under a  
10:52AM 9 DEA investigation, right?

10:52AM 10           **MR. MacKAY:** Objection. Objection. Assumes facts  
10:52AM 11 not in evidence.

10:52AM 12           **MR. COOPER:** Judge, those facts are in evidence.

10:52AM 13           **THE COURT:** Overruled. Overruled. You don't need --  
10:52AM 14 overruled.

10:52AM 15           **THE WITNESS:** I'm sorry, can you --

10:52AM 16           **MR. COOPER:** Ann, can you read back that question,  
10:52AM 17 please?

10:52AM 18           (The above-requested question was then read by the  
10:52AM 19 reporter.)

10:52AM 20           **THE WITNESS:** I don't know. I wasn't part of that  
10:52AM 21 conversation. I don't know what they discussed. I would  
10:52AM 22 assume that the subject would put enough information together  
10:52AM 23 to realize that, you know, his name came up. But, again, I  
10:52AM 24 wouldn't know for sure.

10:53AM 25           **MR. COOPER:** Okay. I have no further questions,

10:53AM 1 Judge.

10:53AM 2 **THE COURT:** Mr. MacKay?

10:53AM 3

10:53AM 4 **CROSS-EXAMINATION BY MR. MacKAY:**

10:53AM 5 Q. Good morning, Agent Wisniewski. How are you?

10:53AM 6 A. Well, sir. How are you?

10:53AM 7 Q. I'm well, thanks for asking.

10:53AM 8 All right. Let's start with timeframe. Those events  
10:53AM 9 occur in late 2008, correct?

10:53AM 10 A. Yes.

10:53AM 11 Q. 16 years ago, correct?

10:53AM 12 A. Yes.

10:53AM 13 Q. And I think it came up in your direct testimony, but a  
10:53AM 14 lot of the stuff you don't have a direct recollection of,  
10:53AM 15 correct?

10:53AM 16 A. It was a long time ago.

10:53AM 17 Q. And that's my question. You're not remembering specific  
10:53AM 18 conversations, correct?

10:53AM 19 A. Yes.

10:53AM 20 Q. You're not remembering the words of the specific  
10:53AM 21 conversations, correct?

10:53AM 22 A. Not the specific ones, no, sir.

10:53AM 23 Q. You might have some takeaway from the conversation, but  
10:53AM 24 fair to say you're lacking a lot of -- you're lacking a  
10:54AM 25 recall of a lot of the specifics, correct?

10:54AM 1 A. Yes.

10:54AM 2 Q. Okay. Let's talk about DEA files.

10:54AM 3 So Matt Scalia is the name of the C2 -- I'm sorry --

10:54AM 4 C2-06-0120 file, correct?

10:54AM 5 A. Yes.

10:54AM 6 Q. And I think you told us on direct, he's assigned a name

10:54AM 7 probably because he's the first target or subject being

10:54AM 8 looked at in that file, correct?

10:54AM 9 A. Yes.

10:54AM 10 Q. And that goes all the way back to around 2006, correct?

10:54AM 11 A. Yes.

10:54AM 12 Q. And at that point in time, you're what's called the case

10:54AM 13 agent on the file, correct?

10:54AM 14 A. One of them, yes.

10:54AM 15 Q. The other one being Christian Ulmer, your partner?

10:54AM 16 A. Yes.

10:54AM 17 Q. You open that file up, right?

10:54AM 18 A. Yes.

10:54AM 19 Q. And from there, you told us a little bit on direct, DEA

10:54AM 20 investigations can take different routes, right?

10:54AM 21 A. Yes.

10:54AM 22 Q. Start with one file that might branch off into

10:54AM 23 investigating somebody else, correct?

10:54AM 24 A. Yes.

10:54AM 25 Q. And in this specific case, Dave Gambino becomes one

1 avenue that the Matt Scalia file takes, correct?

2 A. Yes.

3 Q. Now, just kind of simplifying it, we've got the Matt  
4 Scalia file, the whole file, correct?

5 A. Yes.

6 Q. Within there, you've got some information about Dave  
7 Gambino, correct?

8 A. Yes.

9 Q. Now Dave Gambino is also connected to other law  
10 enforcement agencies because he's the subject of an OCDETF  
11 investigation, correct?

12 A. Yes.

13 Q. So when you're working on an investigation with Dave  
14 Gambino, you're linking up with other agencies, correct?

15 A. Yes.

16 Q. And in that investigation, you had a lot of discussion  
17 with a number of different agencies, correct?

18 A. Yes.

19 Q. And fair to say the Dave Gambino investigation took on a  
20 life of its own?

21 A. It was -- it became large, yes.

22 Q. It was ultimately resulted in a prosecution where the  
23 criminal complaint was filed by the DEA, correct?

24 A. I believe so.

25 Q. By Bobby Nunn?

10:55AM 1 A. At some point, I was taken off the case because I changed  
10:56AM 2 groups and I don't -- I don't have all the specifications of  
10:56AM 3 who was resolved.

10:56AM 4 Q. But within the David Gambino investigation, there was  
10:56AM 5 also the individual David Reynolds?

10:56AM 6 A. I believe so.

10:56AM 7 Q. Somewhere in that investigation, he's connected, correct?

10:56AM 8 A. I believe so.

10:56AM 9 **MR. MacKAY:** So, Ms. Champoux, can we pull up  
10:56AM 10 Government Exhibit 30B, please? For everybody.

10:56AM 11 **THE CLERK:** All set.

10:56AM 12 **MR. MacKAY:** Can we go to page 3, the chart page.

10:56AM 13 Okay.

10:56AM 14 **BY MR. MacKAY:**

10:56AM 15 Q. Okay. So in front of you, there's the chart that's  
10:56AM 16 attached to Government Exhibit 30B, do you see that?

10:56AM 17 A. Yes.

10:56AM 18 Q. Okay. So it's your testimony that that chart, you  
10:56AM 19 specifically received from TJ Webb?

10:56AM 20 A. Yes.

10:56AM 21 Q. And you look at the bottom, you see TJ Webb's number on  
10:56AM 22 there, correct?

10:56AM 23 A. Yes.

10:56AM 24 Q. Right above that, I'm underlining it, do you see Mark  
10:57AM 25 Marchiello, and you see a phone number, correct?

10:57AM 1 A. Yes.

10:57AM 2 Q. Your understanding is that somewhere along the process,  
10:57AM 3 this information that's depicted in this chart comes through  
10:57AM 4 Mark Marchiello from the Buffalo police?

10:57AM 5 A. That's my understanding, yes.

10:57AM 6 Q. Okay. Over on the lower right, I'm sorry, lower left  
10:57AM 7 side, you've got a file title -- I'm sorry, a file number  
10:57AM 8 matching Matt Scalia, correct?

10:57AM 9 A. Yes.

10:57AM 10 Q. Now, right below there, I'm going to underline it, I  
10:57AM 11 realize it's going vertical, it says conj, C-O-N-J, period,  
10:57AM 12 W slash ICE. Do you see that?

10:57AM 13 A. Yes.

10:57AM 14 Q. Is that -- I'm trying to spell that out, is that a fair  
10:57AM 15 depiction of what you see there?

10:57AM 16 A. I believe it says original with ice.

10:57AM 17 Q. Oh, that's what I was wondering, is what does that stand  
10:57AM 18 for. And your understanding is that's --

10:58AM 19 A. Original is with ICE.

10:58AM 20 Q. Okay.

10:58AM 21 A. So they maintained whatever Mark Marchiello had.

10:58AM 22 Q. Okay. Now, your testimony on direct is that TJ Webb  
10:58AM 23 reaches out to you in a phone call when you're at the U.S.  
10:58AM 24 Attorney's Office, right?

10:58AM 25 A. I believe so, yes.

10:58AM 1 Q. Okay. And at some point in time after that, you get some  
10:58AM 2 sort of organizational chart that he turns over to you,  
10:58AM 3 correct?

10:58AM 4 A. Yes.

10:58AM 5 Q. Okay. And that was all in the discussion of the Dave  
10:58AM 6 Gambino case, correct?

10:58AM 7 A. Yes.

10:58AM 8 Q. You did not prepare a DEA-6 on the receipt of that chart  
10:58AM 9 though, correct?

10:58AM 10 A. No.

10:58AM 11 Q. Okay. Nowhere in the Matt Scalia file was there any  
10:58AM 12 DEA-6 regarding your acquisition of a chart, correct?

10:58AM 13 A. No.

10:58AM 14 Q. Now, you met with in conjunction with this investigation  
10:58AM 15 against Mr. Bongiovanni, you met with the Department of  
10:58AM 16 Justice Office of Inspector General, correct?

10:59AM 17 A. Yes.

10:59AM 18 Q. Okay. Fair to say that was around June of 2020, correct?

10:59AM 19 A. I believe so.

10:59AM 20 Q. Okay. And do you recall being shown this chart at that  
10:59AM 21 time?

10:59AM 22 A. Yes.

10:59AM 23 Q. Okay. What you told them at that time is that doesn't  
10:59AM 24 look like the same chart I got from TJ Webb, correct?

10:59AM 25 A. I don't remember what I told them, but I --

10:59AM 1 Q. Well, let me stop you there.

10:59AM 2 Would it help to refresh your recollection to look at the  
10:59AM 3 report there?

10:59AM 4 A. Yes.

10:59AM 5 Q. Okay.

10:59AM 6 **MR. MacKAY:** Ms. Champoux, can we show for the  
10:59AM 7 witness only Government Exhibit 3508B-1. Can we go to the  
10:59AM 8 second page.

11:00AM 9 Just bear with us, we'll get it up for you.

11:00AM 10 **THE WITNESS:** Sure.

11:00AM 11 **MR. SINGER:** 3501B-1?

11:00AM 12 **MR. MacKAY:** Yeah.

11:00AM 13 **MR. SINGER:** I've got it.

11:00AM 14 **MR. MacKAY:** May I approach, Judge?

11:00AM 15 **THE COURT:** Sure.

11:00AM 16 **MR. MacKAY:** Stand by. We're having some technical  
11:00AM 17 difficulties, Agent Wisniewski.

11:01AM 18 **THE COURT:** Why don't we take a break since we have  
11:01AM 19 this technical difficulty, and we'll try to figure it out.

11:01AM 20 Please remember my instructions about not  
11:01AM 21 communicating about the case with anyone, including each  
11:01AM 22 other, not making up your mind. And we'll see you back here  
11:01AM 23 in about 10 or 15 minutes. Thanks.

11:01AM 24 (Jury excused at 11:01 a.m.)

11:02AM 25 **THE COURT:** Okay. Anything for the record from the

11:02AM 1 government?

11:02AM 2 **MR. TRIPI:** No, Your Honor. Thank you very much.

11:02AM 3 **THE COURT:** From the defense?

11:02AM 4 **MR. MacKAY:** No, Your Honor.

11:02AM 5 **THE COURT:** See you folks in a few minutes.

11:02AM 6 **THE CLERK:** All rise.

11:02AM 7 (Off the record at 11:02 a.m.)

11:02AM 8 (Back on the record at 11:16 a.m.)

11:16AM 9 (Jury not present.)

11:16AM 10 **THE CLERK:** All rise.

11:16AM 11 **THE COURT:** Please be seated.

11:16AM 12 **THE CLERK:** We are back on the record for the

11:16AM 13 continuation in the jury trial in case number 19-cr-227,

11:16AM 14 United States of America versus Joseph Bongiovanni.

11:16AM 15 All counsel and parties are present.

11:16AM 16 **THE COURT:** Okay. Anything we need to do before we

11:16AM 17 bring the jury back?

11:16AM 18 **MR. TRIPI:** No, Your Honor.

11:16AM 19 **MR. MacKAY:** No, Your Honor.

11:16AM 20 **THE COURT:** Okay. I need to break at 12:30. I've

11:16AM 21 got a call that I need to make right at 12:30. So whoever is

11:16AM 22 up doing whatever they're doing when we get close to there,

11:17AM 23 just when there's a convenient time to break, let me know.

11:17AM 24 **MR. COOPER:** We're going to break for lunch at 12:30?

11:17AM 25 **THE COURT:** We're going to break for lunch at 12:30.

11:17AM 1 Exactly. Exactly.

11:17AM 2 Okay. Let's bring them in, please, Pat. Thank you.

11:18AM 3 (Jury seated at 11:18 a.m.)

11:18AM 4 **THE COURT:** The record will reflect that all our  
11:18AM 5 jurors, again, are present.

11:18AM 6 I remind the witness that he's still under oath.

11:19AM 7 And you may continue, Mr. MacKay.

11:19AM 8 **MR. MacKAY:** Thank you, Your Honor.

11:19AM 9 **BY MR. MacKAY:**

11:19AM 10 Q. All right. So Agent Wisniewski, I want to back up a few  
11:19AM 11 questions, because we took a break, I want to reorient you to  
11:19AM 12 what we were talking about before I have you look at that.

11:19AM 13 So, 2020, as part of this investigation against  
11:19AM 14 Mr. Bongiovanni, you go and you meet with the Office of  
11:19AM 15 Inspector General for an interview, correct?

11:19AM 16 A. I'm sorry.

11:19AM 17 Q. You met in 2020 with the Office of Inspector General to  
11:19AM 18 give an interview, correct?

11:19AM 19 A. Yes.

11:19AM 20 Q. Okay. At that point in time, you had a lawyer with you,  
11:19AM 21 correct?

11:19AM 22 A. I believe I did, yes, on the telephone.

11:19AM 23 Q. Okay. And you were asked some questions about the case.  
11:19AM 24 And I think you told us already you recall being shown this  
11:19AM 25 chart that's in Government Exhibit 30B, correct?

11:19AM 1 A. Yes.

11:19AM 2 Q. But when you talked to OIG in 2020, you said that's not  
11:19AM 3 the same chart, correct?

11:19AM 4 A. I -- I want to -- I don't recall exactly what I told  
11:20AM 5 them.

11:20AM 6 Q. So -- so if you don't recall, what I'm going to say is  
11:20AM 7 would it help to refresh your recollection --

11:20AM 8 A. Yes.

11:20AM 9 Q. -- to look at the MOI from that interview?

11:20AM 10 A. Yes.

11:20AM 11 Q. So you should have up on your screen there Government  
11:20AM 12 Exhibit 3501B-1. I'm going to direct you to the second full  
11:20AM 13 paragraph. Read that to yourself, and look up at me when  
11:20AM 14 you're done.

11:20AM 15 Okay. So does that refresh your recollection as to what  
11:20AM 16 you told OIG back in 2020?

11:20AM 17 A. It does.

11:20AM 18 Q. Okay. And that the chart you were looking at, at 30B, is  
11:21AM 19 not the same one you were given by TJ Webb, correct?

11:21AM 20 A. I didn't really recognize the chart that they showed me,  
11:21AM 21 so I was a little taken aback, and I was trying to process  
11:21AM 22 like if it was the one I was looking at. And for some reason  
11:21AM 23 I didn't recognize it.

11:21AM 24 **MR. MacKAY:** Ms. Champoux, can we put Government  
11:21AM 25 Exhibit 30B back up on the screen for the witness and the

11:21AM 1 jury?

11:21AM 2 Can we go to the third page, the chart?

11:21AM 3 **BY MR. MacKAY:**

11:21AM 4 Q. Do you see your handwriting anywhere on the chart?

11:21AM 5 A. Yes.

11:21AM 6 Q. Where?

11:21AM 7 A. The lower left corner.

11:21AM 8 Q. What specifically?

11:21AM 9 A. The C2-06-0120 copy, original with ICE. Phone numbers  
11:21AM 10 might be mine. It's hard to tell. I have very -- my  
11:21AM 11 handwriting is just getting worse with age.

11:21AM 12 Q. Mine too, Agent.

11:21AM 13 But we can agree, your handwriting's on there somewhere?

11:21AM 14 A. Yes.

11:21AM 15 Q. So you had this chart in your possession at some point in  
11:22AM 16 time, correct?

11:22AM 17 A. Yes.

11:22AM 18 Q. And I think I've already asked you, but just to clarify,  
11:22AM 19 when you purportedly received the chart from Special Agent  
11:22AM 20 Webb, you did not write a DEA-6 on that separately?

11:22AM 21 A. No.

11:22AM 22 Q. You had the opportunity to review the Matt Scalia file  
11:22AM 23 prior to testifying today?

11:22AM 24 A. A few reports.

11:22AM 25 Q. Would you have any reason to disagree with me that the

11:22AM 1 chart in front of you is the only handwritten organization  
11:22AM 2 chart in the entire Matt Scalia file?  
11:22AM 3 A. I believe so.  
11:22AM 4 Q. Okay. All right. So let's put this chart aside for a  
11:22AM 5 moment.  
11:22AM 6 **MR. MacKAY:** Ms. Champoux, you can take that down.  
11:22AM 7 Thank you.  
11:22AM 8 **BY MR. MacKAY:**  
11:22AM 9 Q. So, you have a discussion with Joseph Bongiovanni because  
11:22AM 10 the name Peter Gerace is raised, correct?  
11:22AM 11 A. Yes.  
11:22AM 12 Q. And we took the chart down, but it appears like Peter  
11:22AM 13 Gerace's name is on that chart, just misspelled in some  
11:22AM 14 fashion, correct?  
11:22AM 15 A. That's what I assumed.  
11:22AM 16 Q. Okay. And if you recall it says "Gerasi," but it's  
11:23AM 17 spelled with an I instead of an E, correct?  
11:23AM 18 A. Yes.  
11:23AM 19 Q. So you have this conversation with Mr. Bongiovanni, and  
11:23AM 20 what comes out of it in sum and substance is Mr. Bongiovanni  
11:23AM 21 indicated he can make some -- what you called cold approach  
11:23AM 22 of Peter Gerace, correct?  
11:23AM 23 A. Yes.  
11:23AM 24 Q. And at that point in time, you are the acting G.S.,  
11:23AM 25 correct?

11:23AM 1 A. Yes.

11:23AM 2 Q. Acting G.S., so the jury understands again, you're  
11:23AM 3 filling in as an acting supervisor, correct?

11:23AM 4 A. Yes.

11:23AM 5 Q. Who is the G.S. at the time?

11:23AM 6 A. I want to say it was Brian Conneely.

11:23AM 7 Q. And the RAC at the time?

11:23AM 8 A. I think it was vacant. I don't really recall. I think  
11:23AM 9 it was vacant, and I think Brian Conneely was the Acting RAC.

11:23AM 10 Q. Do you recall whether Dale Kasprzyk held any supervisory  
11:23AM 11 position at that point in time?

11:23AM 12 A. I don't recall. But --

11:23AM 13 Q. Bottom line, even as the Acting G.S., you're still  
11:23AM 14 reporting to somebody in Buffalo?

11:23AM 15 A. Yes.

11:23AM 16 Q. Whoever that is, there still is somebody above you?

11:24AM 17 A. Yes.

11:24AM 18 Q. Okay. So you have this discussion with Mr. Bongiovanni  
11:24AM 19 about a possible cold approach, yes?

11:24AM 20 A. Yes.

11:24AM 21 Q. Didn't take that up the chain to anybody else, correct?

11:24AM 22 A. No, I discussed it with leadership and my other partners.

11:24AM 23 Q. Who specifically?

11:24AM 24 A. Most likely Brian Conneely.

11:24AM 25 Q. And you got approved obviously?

11:24AM 1 A. Yeah. Everybody was in agreement that it was worth a  
11:24AM 2 shot.

11:24AM 3 Q. I mean, it might be putting the cart before the horse,  
11:24AM 4 but if you're allowing him to go do that, that presumes he  
11:24AM 5 has the authority to go do that, correct?

11:24AM 6 A. Yes.

11:24AM 7 Q. So somewhere along the line you're telling us that  
11:24AM 8 somebody in leadership gave approval for Mr. Bongiovanni to  
11:24AM 9 go make a connection to Peter Gerace, correct?

11:24AM 10 A. Yes.

11:24AM 11 Q. And you understood that happened because Mr. Bongiovanni  
11:24AM 12 comes back on the other end of it and tells you that he did  
11:24AM 13 do this cold approach, correct?

11:24AM 14 A. Yes.

11:24AM 15 Q. And it's your understanding that not much came out of it  
11:24AM 16 though, correct?

11:24AM 17 A. Correct.

11:24AM 18 Q. Some information about possibly 10 kilograms or pounds of  
11:25AM 19 marijuana?

11:25AM 20 A. Yes.

11:25AM 21 Q. Okay.

11:25AM 22 A. Something -- something to that effect.

11:25AM 23 Q. So there was -- you were in possession of some  
11:25AM 24 information that Peter Gerace was involved in narcotics,  
11:25AM 25 correct?

11:25AM 1 A. Yes.

11:25AM 2 Q. And from the chart that you're shown, Peter Gerace has  
11:25AM 3 some connection at least in this org chart to Dave Reynolds,  
11:25AM 4 correct?

11:25AM 5 A. Yes, sir.

11:25AM 6 Q. And from your recollection to the OCDETF investigation  
11:25AM 7 into Dave Gambino, there's some connection between Dave  
11:25AM 8 Gambino and Dave Reynolds, correct?

11:25AM 9 A. I believe so, yes.

11:25AM 10 Q. So, you would agree with me that it's a fair statement  
11:25AM 11 that around 2008, the end of the year, DEA comes into  
11:25AM 12 possession of some information from Peter Gerace, somehow  
11:25AM 13 connected to Dave Reynolds and Dave Gambino, correct?

11:25AM 14 A. Yes.

11:25AM 15 Q. Now, as you told the jury though, you don't -- you don't  
11:25AM 16 know what Mr. Bongiovanni said when he linked up with  
11:26AM 17 Mr. Gerace, correct?

11:26AM 18 A. No.

11:26AM 19 Q. But let's put this date in perspective. Do you recall  
11:26AM 20 that Dave Reynolds is arrested by HSI in November of 2008?

11:26AM 21 A. I don't recall that, no.

11:26AM 22 Q. I think I might have touched on it already, but do you  
11:26AM 23 recall that Dave Gambino is arrested by DEA sometime later in  
11:26AM 24 late 2009?

11:26AM 25 A. Again, I don't -- I -- I don't really recall any of that.

11:26AM 1 I think I was already off the case by that point.

11:26AM 2 Q. Okay. But in late 2008, you're still on the case in some  
11:26AM 3 fashion, correct?

11:26AM 4 A. Yes.

11:26AM 5 Q. You're helping to fashion the case, the Dave Gambino  
11:26AM 6 investigation, into a full prosecutable case, correct?

11:26AM 7 A. Yes.

11:26AM 8 Q. At that time, you came in receipt of some information  
11:26AM 9 that Peter Gerace is involved in narcotics trafficking,  
11:26AM 10 correct?

11:26AM 11 A. Yes.

11:26AM 12 Q. Okay. Again, you didn't write a report on that, correct?

11:26AM 13 A. No.

11:26AM 14 Q. Do you recall taking that information up the chain to  
11:26AM 15 leadership to report back on what the cold approach was?

11:27AM 16 A. I don't recall, but they would have asked and I would  
11:27AM 17 have told them that nothing came of it.

11:27AM 18 Q. So it was procedure that on the back end of this cold  
11:27AM 19 approach, you still had to go back up to leadership and tell  
11:27AM 20 them what happened?

11:27AM 21 A. Yes.

11:27AM 22 Q. Okay. And I guess what I'm getting towards is late 2008,  
11:27AM 23 you've got information that Peter Gerace is involved in  
11:27AM 24 narcotics trafficking, correct?

11:27AM 25 A. Yes.

11:27AM 1 Q. And did you have any information at that point in time  
11:27AM 2 whether Peter Gerace is on supervised release?

11:27AM 3 A. I don't recall that, knowing that, no.

11:27AM 4 Q. But after you have this discussion with Mr. Bongiovanni  
11:27AM 5 about the cold approach not working out, you don't take any  
11:27AM 6 further investigative steps to investigate Peter Gerace,  
11:27AM 7 correct?

11:27AM 8 A. I don't recall that I did, no.

11:27AM 9 Q. Okay.

11:27AM 10 **MR. MacKAY:** Judge, could I just have one moment,  
11:27AM 11 please?

11:27AM 12 **THE COURT:** Yep.

11:28AM 13 **MR. MacKAY:** I have no further questions, Your Honor.

11:28AM 14 **MR. COOPER:** Just one second, please, Judge.

11:28AM 15 **THE COURT:** Sure.

11:29AM 16

11:29AM 17 **REDIRECT EXAMINATION BY MR. COOPER:**

11:29AM 18 Q. Special Agent Wisniewski, on cross-examination a moment  
11:29AM 19 ago, you were asked some questions by Mr. MacKay about your  
11:29AM 20 status as the acting group supervisor at or around the time  
11:29AM 21 that the defendant recommended doing a cold approach of Peter  
11:29AM 22 Gerace, right?

11:29AM 23 A. Yes.

11:29AM 24 Q. And Mr. MacKay said, oh, you approved that, right?

11:29AM 25 A. Yes.

11:29AM 1 Q. In 2008, when this is happening, about how long had you  
11:29AM 2 worked with the defendant for, approximately?

11:29AM 3 A. Again, we met each other at the academy, 1998, 1999. And  
11:30AM 4 we were on the same team multiple times. I would say I've  
11:30AM 5 known him pretty much my entire career.

11:30AM 6 Q. At that time, you've known him about a decade; is that  
11:30AM 7 correct?

11:30AM 8 A. Yes.

11:30AM 9 Q. Do you occasionally socialize with other agents?

11:30AM 10 A. Yes.

11:30AM 11 Q. Do you have a friendly atmosphere in the office?

11:30AM 12 A. Yes.

11:30AM 13 Q. Did you trust him at that time?

11:30AM 14 A. I did.

11:30AM 15 Q. When the defendant recommended doing a cold approach and  
11:30AM 16 when you approved it, did he tell you that he was friends  
11:30AM 17 with the person?

11:30AM 18 A. He said that he knew him from the old neighborhood is  
11:30AM 19 what I recall.

11:30AM 20 Q. Did he tell you they were close personal friends?

11:30AM 21 A. I don't recall having an extended conversation about the  
11:30AM 22 nature of their relationship.

11:30AM 23 Q. Did he tell you they went to dinner together?

11:30AM 24 A. No.

11:30AM 25 Q. Did he tell you that they went on dates together?

11:30AM 1 A. No.

11:30AM 2 Q. Did he tell you that they texted and talked on the phone?

11:30AM 3 A. No, not that I recall.

11:30AM 4 Q. Are there ethical standards for DEA special agents about  
11:30AM 5 who you can and can't investigate when you have a  
11:30AM 6 relationship with a person?

11:30AM 7 A. Yes.

11:30AM 8 Q. Is it appropriate for a DEA special -- agent as an acting  
11:31AM 9 group supervisor, would you approve a DEA special agent  
11:31AM 10 investigating someone he's personal friends with?

11:31AM 11 A. I would definitely run that up the chain of command.

11:31AM 12 There is a policy in place where you're supposed to report  
11:31AM 13 the connection, and then there's an internal process where  
11:31AM 14 things like that get reviewed. And I would say most times  
11:31AM 15 the agent that's close personal friends does not work that  
11:31AM 16 case.

11:31AM 17 Q. There are some pretty obvious problems investigating your  
11:31AM 18 close personal friends, right, sir?

11:31AM 19 A. Yes.

11:31AM 20 **MR. MacKAY:** Objection, leading.

11:31AM 21 **THE COURT:** Sustained.

11:31AM 22 **BY MR. COOPER:**

11:31AM 23 Q. Would you approve somebody --

11:31AM 24 **THE COURT:** Stop, stop, stop.

11:31AM 25 The jury will strike that last question and answer.

11:31AM 1 Go ahead, Mr. Cooper.

11:31AM 2 **BY MR. COOPER:**

11:31AM 3 Q. As an acting group supervisor, would you approve someone  
11:31AM 4 to investigate their close personal friend?

11:31AM 5 A. Probably not.

11:32AM 6 Q. If you had known in 2008 when you approved the defendant  
11:32AM 7 to do the cold approach that he was close personal friends  
11:32AM 8 with Peter Gerace, would you have approved it?

11:32AM 9 A. Again, as I stated earlier, I would definitely -- it  
11:32AM 10 would definitely affect the decision-making process. It  
11:32AM 11 would be discussed above my level. And then I probably  
11:32AM 12 wouldn't be the one making that decision.

11:32AM 13 Q. That's not what happened, though, right?

11:32AM 14 A. No.

11:32AM 15 Q. Do you know a person by the name of Dale Kasprzyk?

11:32AM 16 A. Yes.

11:32AM 17 Q. Would it be fair to say he became a group supervisor  
11:32AM 18 sometime at or after 2009?

11:32AM 19 A. Again, I don't recall specifically, but that sounds like  
11:32AM 20 it could be correct.

11:32AM 21 Q. Do you -- can you just tell the jury who specifically are  
11:32AM 22 the people that you recall discussing the defendant doing a  
11:32AM 23 cold approach with?

11:32AM 24 A. TJ Webb, Dave Turri from the IRS, partner agencies.

11:33AM 25 Brian Conneely. And I don't know if Dale Kasprzyk was a part

1 of those conversations, or not.

2 Q. You don't have any recollection of discussing it with  
3 Dale Kasprzyk?

4 A. I don't.

5 Q. Okay. And you were asked some questions on  
6 cross-examination at the beginning of the cross about the  
7 passage of time that's occurred between when this incident  
8 happened and your testimony here today, right?

9 A. Yes.

10 Q. And you were asked some questions about your ability to  
11 recall details of conversations, right?

12 A. Yes, right.

13 Q. When you didn't remember something, when you were asked a  
14 question, did you say you didn't remember?

15 A. I believe I did.

16 Q. Okay. Have you made anything up from the witness stand,  
17 sir?

18 A. No.

19 Q. Did you want to come here and testify against your former  
20 coworker?

21 A. No, I did not.

22 Q. When you told the jury that you remembered something, did  
23 you remember it?

24 A. Yes.

25 Q. Did you tell them the details that you remembered?

11:34AM 1 A. Yes.

11:34AM 2 Q. Did you make any of that up?

11:34AM 3 A. No.

11:34AM 4 **MR. COOPER:** No further questions, Judge.

11:34AM 5

11:34AM 6 **RECROSS-EXAMINATION BY MR. MacKAY:**

11:34AM 7 Q. Just to finish up, Agent Wisniewski, discussing this cold  
11:34AM 8 approach, that's a connection that the office would try to  
11:34AM 9 make to Peter Gerace, correct?

11:34AM 10 A. Yes.

11:34AM 11 Q. Wouldn't necessarily change who was investigating the  
11:34AM 12 case, correct?

11:34AM 13 A. No.

11:34AM 14 Q. I mean, let's say a cold approach was theoretically  
11:34AM 15 successful, it doesn't mean that Mr. Bongiovanni is going to  
11:34AM 16 take the case over, correct?

11:34AM 17 A. Correct.

11:34AM 18 Q. It was still in your hands or whoever was handling the  
11:34AM 19 case, correct?

11:34AM 20 A. Correct.

11:34AM 21 Q. You testified earlier that you were the case agent for a  
11:34AM 22 long time on the Matt Scalia file, correct?

11:34AM 23 A. Yes.

11:34AM 24 Q. Okay. Regarding, again, this discussion about starting  
11:34AM 25 the cold approach, as you sit here today do you remember that

11:35AM 1 you did discuss this with leadership in some way, correct?

11:35AM 2 A. Yes.

11:35AM 3 Q. There were people you told who were above you, correct?

11:35AM 4 A. Yes.

11:35AM 5 Q. And as best you can fathom it, it obviously got approved,

11:35AM 6 because you told Mr. Bongiovanni he could go do it?

11:35AM 7 A. Yes.

11:35AM 8 Q. You said he also made links to outside agencies telling

11:35AM 9 them that this was gonna happen, correct?

11:35AM 10 A. Yes.

11:35AM 11 Q. And --

11:35AM 12 **MR. MacKAY:** Just checking my notes here.

11:35AM 13 That's all the questions I have. Thank you.

11:35AM 14 **THE COURT:** Anything more, Mr. Cooper?

11:35AM 15 **MR. COOPER:** No, thank you, Judge.

11:35AM 16 **THE COURT:** You can step down, sir.

11:35AM 17 **THE WITNESS:** Yes, Judge.

11:35AM 18 (Witness excused at 11:35 a.m.)

11:35AM 19 (Excerpt concluded at 11:35 a.m.)

11:35AM 20 \* \* \* \* \*

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2                   **CERTIFICATE OF REPORTER**  
3

4                   In accordance with 28, U.S.C., 753(b), I  
5 certify that these original notes are a true and correct  
6 record of proceedings in the United States District Court for  
7 the Western District of New York on August 7, 2024.  
8  
9

10                  s/ Ann M. Sawyer  
11                  Ann M. Sawyer, FCRR, RPR, CRR  
12                  Official Court Reporter  
13                  U.S.D.C., W.D.N.Y.  
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4                   **AUGUST 7, 2024**

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